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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/238,821 01/28/99 BIGUS

*R0998-2382*

EXAMINER
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TM11/0813

ART UNIT	PAPER NUMBER
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DATE MAILED: 11/13/01

09/13/01

*Response Due 11/13/01*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/238,821**

Applicant(s)

Bigus

Examiner  
**Hani Kazimi**

Art Unit  
**2164**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 23, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 and 48-52 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 and 48-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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## **DETAILED ACTION**

1. This communication is in response to the amendment filed on May 23, 2001. The rejections cited are as stated below.

### ***Status of Claims***

2. Of the original claim 1, claim, has been amended and claims 2-52 have been added in the preliminary amendment filed on May 24, 1999. In the amendment filed on September 8, 2000, claim 47 has been canceled, and claims 1, 11, 20, 24, 34, 43, 46, 48, 49, and 50 have been amended. In the amendment filed on May 23, 2001, claims 1, 11, 20, 24, 34, 43, 46, and 50 have been amended. Therefore, claims 1-46, and 48-52 are under prosecution in this application.

### ***Summary of Office Action***

3. Applicants' amendment filed on May 23, 2001 have been fully considered, the pending claims 1-46, and 48-52 are rejected as being unpatentable over the art cited below, and Applicants' request for allowance is respectfully denied.

### ***Response to Applicant's Amendment***

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

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basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 11, 13, 15, 18, 19, 34, 36, 38, 41, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsuda et al. US Pat. No. 5,794,116.

Claims 11, and 34, Matsuda discloses a method and a corresponding computer readable medium for servicing a customer (column 8, lines 6-14), said method comprising the steps of:

transmitting a menu, said menu being transmitted as a wireless transmission (column 7, line 49 thru column 8, line 53);

displaying said menu via a customer device positioned within range of said wireless transmission (column 11, lines 9-36); and

receiving order information from said customer device, said customer device being moved by a customer from a first position to a second position, wherein said first position is not within range of said wireless transmission and wherein said second position is within range of said wireless transmission, said order information being received after said customer device is moved to said second position (fig. 6, and column 10, line 11 thru column 11, line 50).

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Claims 13, and 36, Matsuda teaches that the order information includes user selection information regarding said available items.

Claims 15, 19, 38, and 42, Matsuda teaches that the order information includes and displays vehicle (movable terminal station) identification information (column 3, lines 63-67, and column 6, lines 15-29).

Claims 18, and 41, Matsuda teaches the step of displaying said order information (column 11, lines 9-37).

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

8. Claims 1-4, 6-10, 12, 16, 17, 19-22, 24-27, 29-33, 35, 39, 40, and 42-46, and 48-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda et al. US Pat. No. 5,794,116.

Claims 1, 3, 9, 12, 20, 22, 24, 26, 32, 35, 43, and 45, Matsuda teaches a method for servicing a customer (column 8, lines 6-14), said method comprising the steps of:

- ✓ transmitting information about available items, said information being transmitted as a wireless transmission (column 7, line 49 thru column 8, line 53);
- ✓ displaying said information about available items via a customer device positioned within range of said wireless transmission (column 11, lines 9-36); and
- ✓ receiving order information from at least one customer device, said customer device being moved by a customer from a first position to a second position, wherein said first position is not within range of said wireless transmission and wherein said second position is within range of said wireless transmission, said order information being received after said customer device is moved to said second position (fig. 6, and column 10, line 11 thru column 11, line 50).

Matsuda fails to explicitly teach that the information about available items is repeatedly

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transmitted.

Matsuda suggests that video server continuously transmits video data to a previous zone (column 3, lines 1-7).

It would have been obvious to one of ordinary skilled in the art at the time the Applicant's invention was made to modify the teachings of Matsuda to include the step of repeatedly transmitting information about available items because, Matsuda uses a wireless network for transmitting signals, repeatedly transmitting a signal in a wireless communications system is actually broadcasting a signal, one of ordinary skilled in the art would be motivated to do so, because it provides convenience to the user by eliminating the requesting step by the user, and it greatly improves the marketing aspects of the system by advertising a available items.

Claims 2, 21, 25, and 44, Matsuda teaches that the information about available items is a menu (column 7, line 49 thru column 8, line 53).

Claims 4, and 27, Matsuda teaches that the order information includes user selection information regarding said available items (column 11, lines 9-37).

Claims 6, 10, 29, and 33, Matsuda teaches that the order information is displayed by user, and by vehicle identification information (column 3, lines 63-67, column 6, lines 15-29, and column 12, line 66 thru column 13, line 20).

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Claims 7, 8, 16, 17, 30, 31, 39, and 40, Matsuda teaches the steps of:  
validating said order information (column 14, lines 5-33); and  
accepting said order information when said order information is valid (column 14, lines 5-33).

Matsuda fails to explicitly teach the steps of rejecting said order information when said order information is not valid, transmitting acceptance information to said client device when said order is valid; and transmitting error information to said client device when said order is not valid.

Official notice is taken that transmitting acceptance and/or error information from server to client is old and well known in the art.

It would have been obvious to one of ordinary skilled in the art at the time the Applicant's invention was made to modify the teachings of Matsuda to include the steps of rejecting the order information when said order information is not valid, transmitting acceptance information to the client device when the order is valid; and transmitting error information to said client device when said order is not valid because, it greatly improves the efficiency of the system by keeping the user updated with respect to the request, and provides a system that is user friendly.

Claims 46, and 48-52, Matsuda teaches an apparatus for servicing a customer (column 8, lines 6-14), said apparatus comprising:

a processor (fig. 1, and column 7, lines 15-47);



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memory connected to said processor (fig. 1, and column 7, lines 15-47);

a mechanism for transmitting a menu via a wireless transmission wherein said wireless transmission is designed to be received by a customer device when in range of said transmission (column 7, line 49 thru column 8, line 53, and column 11, lines 9-36);

a mechanism for displaying said menu (column 11, lines 9-36);

a mechanism for transmitting order information, said order information being based upon said menu (column 11, lines 9-36);

a mechanism for receiving order information from said customer device, said order information being generated based upon said menu, said transmission being received when said customer device is moved from an out of range location to a location that is within range of said transmission by a customer (fig. 6, and column 10, line 11 thru column 11, line 50).

Matsuda fails to explicitly teach that the information about menu items is repeatedly transmitted.

Matsuda suggests that video server continuously transmits video data to a previous zone (column 3, lines 1-7).

It would have been obvious to one of ordinary skilled in the art at the time the Applicant's invention was made to modify the teachings of Matsuda to include the step of repeatedly transmitting information about available items because, Matsuda uses a wireless network for transmitting signals, repeatedly transmitting a signal in a wireless communications system is actually broadcasting a signal, one of ordinary skilled in the art would be motivated to do so,

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because it provides convenience to the user by eliminating the requesting step by the user, and it greatly improves the marketing aspects of the system by advertising a available items.

9. Claims 5, 14, 23, 28, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda et al. US Pat. No. 5,794,116 in view of Camaisa et al. US Pat. No. 5,845,263.

Claims 5, 14, 28, and 37, Matsuda fails to teach that order information includes payment information.

Camaisa teaches that order information includes payment information (abstract, and figs 6-15).

It would have been obvious to one of ordinary skilled in the art at the time the Applicant's invention was made to modify the teachings of Matsuda to include payment information in the order information, because it provides convenience to the user by paying for the ordered items from a remote location, and it enhances the system by reducing labor costs in running the business.

Claim 23, Matsuda fails to teach the step of receiving aural order information from an order station.

Camaisa teaches the step of receiving aural order information from an order station (column 8, lines 8-15).

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It would have been obvious to one of ordinary skilled in the art at the time the Applicant's invention was made to modify the teachings of Matsuda to include the step of receiving aural order information from an order station, because, it greatly improves the efficiency of the system by giving the user the option of audio or video transmission, and provides a system that is user friendly.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

a) Pentel US Patent 5,969,968 Oct. 19, 1999. A remote ordering system for a restaurant drive-through lane.

b) Kim et al. US Patent 6,256,129 Jul. 3, 2001. A portable computer for wireless communications for controlling direction of infrared signal transmission and reception.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hani Kazimi whose telephone number is (703) 305-1061. The examiner can normally be reached Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (703) 308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology

Serial Number: 09/238,821

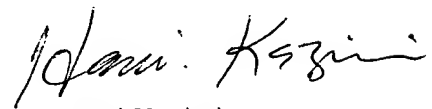
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Center 2100 or this Art Unit is (703) 308-6296 or 6306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Respectfully Submitted

A handwritten signature in cursive script, appearing to read 'Hani Kazimi'.

Hani.Kazimi

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August 3, 2001